IN THE HIGH COURT OF JUDICATURE AT BOMBAY

O.O.C.J.

NOTICE OF MOTION NO. 1274 OF 2003

IN

SUIT NO. 2119 OF 2002

Vivek Makar .....**Plffs.**
vs.
R.B. Shah and co. and ors. .....**Defnds.**

NOTICE OF MOTION NO. 1703 OF 2002
IN
SUIT NO. 2119 OF 2002

Vivek Makar .....**Plffs.**
vs.
R.B Shah and Co. and ors. .....**Defnds.**

D.D. Madon a/w. H.N. Thakore and Agnes Baradia i/b. Thakore Jariwala and Associates for the plaintiffs.

Mahendra Shah a/w. J.R Vakil for defendant no.1,2 and 4.

Neeta Solanki i/b. Kiran Jain for defendant no.3.

S.G Suvarna for respondent.

CORAM: S.U. KAMDAR, J.

DATE : 2nd September, 2005.

P.C. :.

1. By consent of the partises the following order is passed :

2. Learned counsel appearing for defendant no.1, 2 and 4 states that the Building no. 4 which is proposed to be constructed is entirely meant for free sale component. He further states that the plan which are likely to be approved by SRA is for ground plus 10 floors and the total area will be little more than 60,000 sq.fts. He undertakes to this court that he will not alienate, encumber or create any third party rights or part with possession of one-third of the total ground floor area as well as three flats on each floors upto 10 floors out of the said three flats 2 flats will comprise of 1650 sq.ft each and third flat of 945 saleable area (super built up area). Inrespect of each of the three flats on each of the floor also

the defendant shall not alienate, encumber or create any third party right or part with possession thereof till further orders in the present proceedings. Such an written undertaking to be filed by defendant no.1 to 2 and 4 by 6/9/05. On such written undertaking filed in this court the SRA who is a party to the present proceeding as well as the BMC will sanction the plan and issue necessary permissions for construction of the building in favour of the defendant no.1 to 2 and 4 in accordance with law. The defendant no.1 to 2 and 4 will be entitled to construct the said building in accordance with the sanction plan without any hindrance from the plaintiff herein. The defendant no.1 and 2 and 4 will also be entitled to sell the said area excluding the said area reserved for the plaintiff under this order to various third party and enter into transactions inrespect thereto.

2. Both the motions disposed off accordingly. No order as to costs. The defendant no.1 to 2 and 4 will also give copy of the plan sanctioned by the

SRA and BMC to the plaintiff for their perusal and record. sd/-

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